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Regulation Package # 0208-01

CDSS MANUAL LETTER NO. FS-08-01

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package # 0208-01

Effective 07/1/08

Section 63-403

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FoodStamps_618.htm.

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) extends eligibility for certain public social services to noncertified, noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence and other serious crimes, to the same extent as refugees.

In October 2000, the federal Trafficking Victims Protection Act (TVPA) created two new nonimmigrant visas, the "T" Visa, for victims of a severe form of human trafficking, and the "U" Visa, for victims of criminal activity as defined in federal statute, to allow these individuals to remain in the United States (U.S.) The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and has made a bona fide application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General and/or other law enforcement agency in the prosecution of human traffickers.

Federal law defines noncitizen victims of serious crimes as aliens who have suffered substantial physical or mental abuse as a result of having been victims of severe criminal activity and possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

Certain federal programs provide benefits and services to refugees and victims of human trafficking who meet federal eligibility criteria. Noncertified victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides benefits and services to the same extent as those persons eligible under the federal Refugee Act of 1980. Services include, but are not limited to the equivalent of: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Employment Social Services, California Work Opportunity and Responsibility to Kids, Food Stamps, Cash Assistance Program for Immigrants, and Healthy Families Program benefits. Once the trafficking victim has been certified by ORR, he or she is eligible for federal benefits and services to the same extent as refugees.

SB 1569 required the California Department of Social Services (CDSS) to adopt regulations to implement and administer the provisions of the bill no later than July 1, 2008.

These regulations were adopted on an emergency basis and will be considered at the Department's public hearing to be held on August 13, 2008.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp Manual changes was FS-07-01

Page(s)

Replace(s)

168 through 169

Pages 168 through 169

Attachment

PT

63-402	HOUSEHOLD CONCEPT (Continued)	63-402
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- .82 Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible one day prior to involvement in the strike action and on the date of application. The CWD shall perform two separate eligibility determinations.
- .821 To determine pre-strike eligibility, consider the day prior to the member's involvement in the strike as the day of interview and assume the strike did not occur.
- .822 To determine eligibility, compare the striking member's income before the strike to the striker's income which can be anticipated with reasonable certainty during the strike, (e.g., income from the receipt of strike benefits or temporary employment during the strike). The higher of the two amounts shall be added to the income of nonstriking members during the month of application.
- .823 To determine benefits, deductions shall be calculated for the month of application as for any household. Whether the striker's prestrike income or income during the strike is used, the earned income deduction shall be allowed if applicable. Benefit level of an eligible striker household is based on current circumstance except for income as specified above.
- .83 CWDs shall use the method as specified in Section 63-402.82 in determining benefits and eligibility for continuing households when a member becomes involved in a strike. Such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.
- .84 The household's income immediately prior to the involvement in the strike action at the date of application shall be verified at the time of application. Any anticipated income during the strike shall also be accounted for at this time. It is the responsibility of the household to provide the CWD with verification of such income for the purpose of determining eligibility and benefit levels in accordance with Section 63-300.5.
- .85 Strikers shall be subject to the work registration requirements unless exempt under Section 63-407.2.

NOTE: Authority cited: Sections 10554, 18901.3, and 18904, Welfare and Institutions Code. Reference: Sections 10554, 11251.3, 11486.5, 18901.3, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.1(a)(1) through (a)(2)(ii) through (b)(2)(iii), (c), (c)(1) and (6), (d)(1) and (2), (e)(1), and (g); 7 CFR 273.2(j)(4); 7 CFR 273.9(b)(2)(ii); 7 CFR 273.10(c)(1)(i); 7 CFR 273.11, .11(b)(1) and (f); 7 CFR 274.5; and 7 CFR 274.10; Public Law (P.L.) 100-77, Section 802; P.L. 103-66; USDA Food and Nutrition Service (FNS), Administrative Notice (AN) 89-65; AN 94-39; AN 98-43; USDA FNS Policy Memo 89-11 and 89-12; 7 U.S.C. 2015(d)(1), P.L. 104-193, Sections 115, 803, 815, and 821 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and the Balanced Budget Act of 1977 (Sections 5516 and 5518).

63-403	CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP)	63-403
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.1 Noncitizen Eligibility

Certain legal noncitizens of the United States (U.S.) shall be eligible for CFAP if they are not eligible for federal Food Stamp (FS) benefits, based solely on their immigration status under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Reauthorization Act of 2002. Legal presence can be verified through USCIS at application [i.e. Systematic Alien Verification for Entitlements (SAVE) System]. Legal noncitizens whose time limit has expired for the federal program but would otherwise remain eligible for federal benefits are eligible for CFAP.

.11 Victims of trafficking, domestic violence, or other serious crimes.

Welfare and Institutions Code Section 18945 established eligibility for this group of noncitizens. Eligibility rules are outlined in Sections 42-431.23, .3, .4, and .5.

.2 Application of Existing Regulations

Current federal FSP regulations contained in the State FSP Manual (Division 63 of the CDSS Manual of Policies and Procedures) will apply to the CFAP and its participants unless otherwise stated. For CFAP recipients who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be three years from the date of the sponsor's execution of the 213A Affidavit of Support. Victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming.

.21 Existing federal FSP regulations apply to victims of human trafficking, domestic violence, or other serious crimes, except where otherwise indicated.

.211 As a condition of eligibility, when the noncitizen victim of human trafficking, domestic violence, or other serious crimes does not have permission to work in the United States and the Social Security Administration will not issue a social security number, this requirement is suspended until such time as the individual's ability to obtain a social security number changes.

63-403	CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP) (Continued)	63-403
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.3 CFAP work requirements are provided in Section 63-411.

.31 Trafficking, domestic violence, or other serious crime applicants shall not be subject to food stamp work requirements. This includes the Able-Bodied Adult Without Dependents (ABAWD) work requirement, and requirements for food stamp work registration and participation in the Food Stamp Employment and Training (FSET) program. In addition, recipients shall not be subject to penalties for voluntary quit and reduction of hours worked. However, this group may participate in other education or training to the extent such participation is permissible.

.4 Combined Households

For CFAP purposes, combined households are those which contain participants of the federal FSP and CFAP. No household shall receive more food stamp benefits under CFAP than it would have received if all members had remained eligible for the federal FSP.

NOTE: Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 11320.3, 11495.12, 18930 through 18934, and 18945, Welfare and Institutions Code (as amended by AB 1111, Chapter 147, Statutes of 1999 and AB 429, Chapter 111, Statutes of 2001); 7 CFR 273.4; Federal Register, Vol. 61, No. 202, dated 10/17/96; Federal Register, Vol. 52, No. 103, dated May 29, 1987; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and Section 4401(a) of the Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

63-404	SOCIAL SECURITY NUMBERS	63-404
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- .1 Applicant or recipient households shall provide the CWD with the social security number (SSN) of each household member or shall provide verification of application for an SSN prior to certification. If individuals have more than one number, all numbers shall be required.
- .11 The CWD shall explain to applicants and recipients that refusal or failure without good cause to provide or apply for an SSN shall result in disqualification of the individual for whom the SSN is not obtained. The CWD shall send the household a notice of action explaining the effect of the disqualification on the eligibility and allotment of the remaining household members.
- .12 For those individuals who provide SSNs prior to certification, recertification, or at any office contact, the CWD shall record the SSN and verify in accordance with Section 63-404.6.